

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOANNE M. ROYER,)	
Plaintiff)	
)	
V.)	
)	
BLUE CROSS BLUE SHIELD)	
OF MASSACHUSETTS, INC.,)	CIVIL ACTION NO:
BLUE CROSS BLUE SHIELD)	<u>NO: 05-CV-10448-GAO</u>
LONG-TERM DISABILITY BENEFIT)	
PLAN, a/k/a OMNIBUS WELFARE)	
BENEFITS PLAN)	
KEMPER NATIONAL SERVICES, INC.,)	
BROADSPIRE SERVICES, INC., and)	
SHELDON MYERSON, MD.,)	
Defendants)	

OPPOSITION OF THE PLAINTIFF, JOANNE ROYER TO THE DEFENDANTS'
MOTIONS TO DISMISS COUNTS IV AND V

Now comes the Plaintiff in the above entitled matter and in opposition to the Defendants' Motion to Dismiss Counts IV and V of the Plaintiff's Second Amended Complaint says as follows:

The Plaintiff reasserts the same opposition as she has set forth in her both of her Oppositions filed as to Counts I and II of her Complaint as well as to Count III of her Complaint and says that the Defendants are proper parties to Counts I, II, IV and V; and that it is at present, premature to brief the Defendants arguments as to Count III for reasons already indicated.

WHEREFORE, the Plaintiff opposes the court dismissing Counts IV and V as to the Defendants, LTD Plan, KNS, Broadspire and Dr. Myerson and says that it would be error as a matter of law, at this time and under these present circumstances.

REQUEST FOR ORAL ARGUMENT

Counsel for the Plaintiff requests the opportunity to argue this matter orally and estimates that no more than 15 minutes should be required by undersigned counsel for same.

Waiver of ECF is hereby temporarily required and requested.

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Dated: September 15, 2005


The Plaintiff By Her Attorney:

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon opposing counsel of record i.e. to wit: Edward S. Rooney, Jr. Esq., BBO No. 426840, Eckert Seamans Cherin & Mellott, LLC One International Place, 18th Floor, Boston, MA 02110, (617) 342-6800/ Fax (617) 342-6899; and to David F. Schmidt, Esq., Chittenden, Murday & Novotny, LLC., 303 West Madison Street, Suite # 1400, Chicago, IL 60606, (312) 281-3600/ Fax (312) 281-3678 by facsimile transmission and by postage prepaid first-class mail on the month, day and year set forth below.

Dated: September 15, 2005


BERNARD A. KANSKY, ESQ. COUNSEL FOR
THE PLAINTIFF, JOANNE M. ROYER